

KM 8577

OFFICE OF COMMISSIONER RACHELLE B. CHONG

Federal Communications Commission

1919 M Street, N.W., Room 844

Washington, D.C. 20554

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April 18, 1995

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

DOCKET FILE COPY ORIGINAL

The Honorable Helen M. Allen
Mayor
City of Concord
1950 Parkside Drive, MS/01
Concord, California 94519-2578

Re: Cellular Telecommunications Industry Association's Petition to
Preempt State and Local Zoning Regulations

Dear Mayor Allen:

Thank you very much for your letter about the petition filed by the Cellular Telecommunications Industry Association (CTIA). This petition asks the Commission to begin a rule making proceeding to preempt state and local regulation of tower siting for commercial mobile radio service providers, such as cellular and personal communications service (PCS) companies. I am very interested in this issue, and welcomed the opportunity to hear your thoughts on it.

I certainly understand your concerns about the CTIA petition and its impact on the role of local jurisdictions in the cell siting process. Traditionally, cell siting issues are handled at the local level. By and large, this situation has been appropriate, given that zoning and land use issues involve uniquely local concerns, such as aesthetics and compliance with local building codes or other health and safety codes. I believe local authorities should continue to play a key role in these decisions.

However, as the demand for sites for wireless carriers continues to mushroom, I am also concerned about the ability of wireless providers to build out their networks without undue delay. There are many benefits to having national or regional wireless communications systems -- emergency communication abilities are enhanced, and people use wireless communications to become more efficient and productive. Further, new PCS licensees are paying the U.S. treasury billions of dollars for their licenses, which are regional and national in nature. I think it's fair for the federal government to ensure that these licensees are able to build their facilities throughout their service areas in a timely fashion. Moreover, some carriers complain that some localities may like to put a moratorium on all wireless cell sites in

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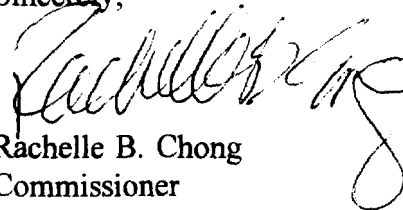
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certain geographic areas. For this reason, I believe the Commission also has an important role to play in this area to ensure ubiquitous and broad coverage without undue delay.

Having said that, I have not yet made any decisions about the CTIA petition. I believe that the Commission must balance the federal interest in ensuring the development of a competitive, efficient mobile services infrastructure against the legitimate interests of local governments in regulating zoning and land use matters. I am open to considering all options available to the Commission to strike the appropriate balance, and hope that you will work with us to find an acceptable solution for both our concerns.

I appreciate your taking the time to share your concerns with me. I will certainly keep them in mind as we consider the CTIA petition.

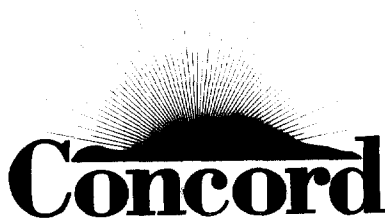
Sincerely,

A handwritten signature in black ink, appearing to read "Rachelle B. Chong", with a large, stylized flourish extending from the end of the signature.

Rachelle B. Chong
Commissioner

CITY OF CONCORD
1950 Parkside Drive, MS/01
Concord, California 94519-2578
FAX: (510) 798-0636

OFFICE OF THE MAYOR
Telephone: (510) 671-3158



CITY COUNCIL
Helen M. Allen, Mayor
Lou Rosas, Vice Mayor
Colleen Coll
Bill McManigal
Michael A. Pastrick

Lynnet Keihl, City Clerk
Thomas Wentling, City Treasurer

Edward R. James, City Manager

March 20, 1995

Commissioner Rachelle Chong
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20036

Dear Commissioner Chong:

Subject: Petition by the Cellular Telecommunications Industry Association

As Mayor of the City of Concord, I urge you to oppose the petition of the Cellular Telecommunications Industry Association to preempt state and local governments from enforcing zoning and other similar regulations in the siting and construction of facilities for commercial mobile radio service.

In the City of Concord, review of these facilities is conducted expeditiously and includes considerations that benefit the health, safety and welfare of our residents. Typically, a public hearing for a Use Permit for these facilities is scheduled to occur within 3 1/2 weeks of receiving a complete application. The conditions of approval which the City requires address essential public health, safety and welfare issues.

For example, attached is a Use Permit issued by the City to Cellular One Telephone Company. This permit is short (two pages) and includes necessary public protections regarding aesthetics, fire safety, proper drainage, and construction standards.

The Cellular One facility was permitted in a residential district. The conditions the City placed on the facility are reasonable and necessary to protect our residents and the company. For example, lack of attention to proper drainage could result in future problems for both adjacent residences and the company.

Commissioner Chong

March 20, 1995

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The City of Concord does not support the loss of our present ability to review and mitigate impacts of these facilities. Other businesses readily comply with this review and the cellular industry should not be exempted as requested by the Cellular Telecommunications Industry Association.

Sincerely,


Helen M. Allen
Mayor

HMA:PD:bo'l

Attachment (Cellular One Telephone Company Facility Use Permit (UP 19-90))

cc: City Council
City Manager
Assistant City Manager
Director of Economic & Community Development
Chief of Planning
Senator Barbara Boxer
Senator Dianne Feinstein
Congressman George Miller
California Public Utilities Commission
Senator Daniel E. Boatwright
Assemblyman Robert J. Campbell
Assemblyman Richard Rainey
David Jones, League of California Cities

City of Concord

*Jonny Dee at
cellular 1*

Telephone Number (415) 671-3152
PLANNING DIVISION

CITY COUNCIL

Byron Campbell, Mayor
Nancy Gore, Vice Mayor
Colleen Coll
Lloyd D. Mashore
Ronald K. Mullin
Rita Hardin, City Manager

September 14, 1990

Bay Area Cellular Telephone Company
505 - 14th Street - 5th Floor
Oakland, CA 94612

Attn: Elizabeth Pennington

Subj: CELLULAR ONE TELEPHONE COMPANY FACILITY USE PERMIT (UP 19-90).

Dear Ms. Pennington:

At a regular meeting of the City of Concord Planning Commission on September 5, 1990 a public hearing was held on the application by Cellular One Telephone Company to install a communication facility at 932 Ridge Drive. Zoned R-40 (40,000 sq. ft. Single Family Residential) District. Parcel 130-060-011.

The Planning Commission confirmed that a negative negative declaration is the appropriate document with mitigation measures and monitoring program noted below and approved the use permit with the finding and conditions noted below.

ENVIRONMENTAL MITIGATION MEASURES AND MONITORING PROGRAM:

1. All visible antennas shall be painted so as to blend in with the existing environment.

Monitoring Program: The planner responsible for reviewing the building permit plans for this project shall review and approve a painting scheme for the antennas prior to issuance of a building permit. The planner shall also require a Planning final inspection of the installation, and shall determine that the painting has been performed satisfactorily prior to signing off on the inspection.

2. Noise producing site preparation and construction activities shall be limited to weekdays between the hours of 8:00 a.m. and 6:00 p.m. All equipment shall be adequately muffled and maintained. No changes shall be allowed without prior written consent of the City.

September 14, 1990.

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Monitoring Program: Complaints received by the Police Department, Engineering Division, Building Division, or any other City department or division shall be forwarded to the Planning Division for appropriate action.

FINDING FOR THE USE PERMIT:

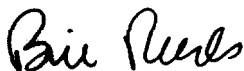
The proposed facility is consistent with the City's adopted General Plan, which calls for providing services to the community by public and quasi-public agencies.

CONDITIONS OR APPROVAL FOR THE USE PERMIT:

1. Antennas shall be no higher than 10 feet. *← CONFIRMS TO APPLICANT'S REQUEST*
2. A separate service box and meter shall be installed subject to the approval of the Concord Building Department and the Contra Costa County Consolidated Fire District.
3. No construction shall be done which disturbs the existing drainage, vegetation or aesthetics of Ridge Drive.
4. Any extension of operation beyond the first five-year lease period will require review by the Planning Staff.

If the option granted by this permit is not exercised within one year from the date of approval, this permit shall become null and void. If any of the above conditions of approval are violated, this permit may be revoked.

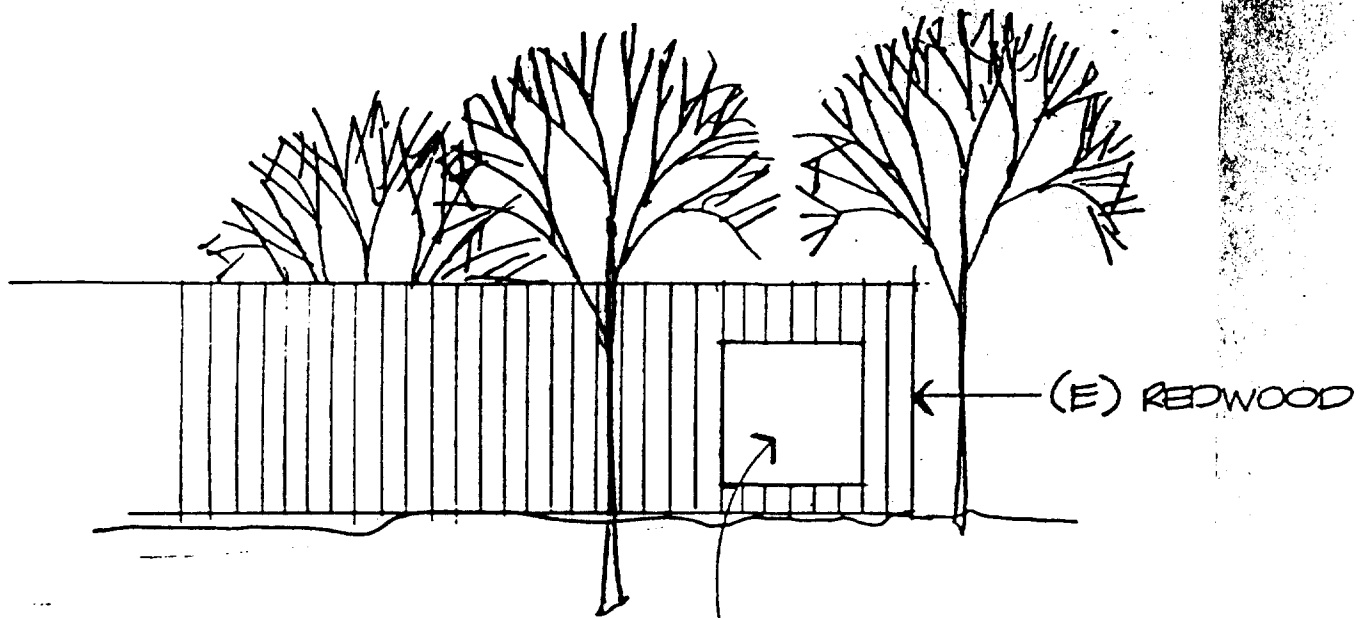
Very truly yours,



Bill Reeds
Director of Planning

BR:gh
pc9-5.ltr

cc: Building Division; Engineering Division; Finance Department; Fire District
Lewis Loeven, Cellular One, 505 - 14th St., Oakland, CA 94512
Cosmo and Claudette Tedeschi, 932 Ridge Drive, Concord, CA 94518



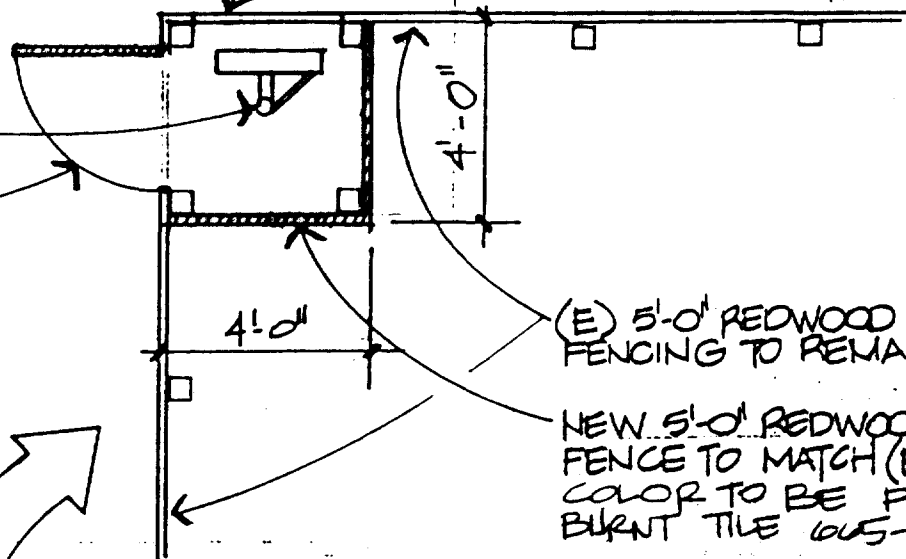
PARTIAL SITE ELEVATION

$\frac{1}{4}" = 1'-0"$

NEW $3' \times 3'$ FIBERGLAS
PANEL SET INTO (E) FENCE,
PAINT BROWN TO MATCH (E)
FENCE. COLOR TO BE -
FULLER O'BRIEN - BURN'T TILE
665-05 ALKYD OR EQUAL

NEW MICROWAVE
DISH SET ON $3'-0"$
STEEL POLE

NEW REDWOOD
GATE SET INTO (E)
FENCING



(E) $5'-0"$ REDWOOD "SLAT"
FENCING TO REMAIN

NEW $5'-0"$ REDWOOD "SLAT"
FENCE TO MATCH (E)
COLOR TO BE FULLER OB
BURN'T TILE 665-05 OR EG

PARTIAL PLAN AT MICROWAVE C